

HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

UNITED STATES OF AMERICA,

Plaintiff,

v.

PHUOC HUU NGUYEN  
a.k.a. Steve Nguyen,  
LOC HUU NGUYEN,  
MONICA NGUYEN,  
a.k.a Dao Thi Nguyen,  
EVERETT LEDBETTER,  
AMANDA THAO NGUYEN,  
a.k.a Del Thi Nguyen, and  
RICHARD EARL ANDERSEN,

Defendants.

Case No. CR04-5647 RBL

ORDER

THIS MATTER comes on before the above-entitled Court upon three motions by defendant Phuoc Huu Nguyen: 1) Motion for Disclosure of 404(b) Evidence [Dkt. #72]; 2) Motion for Grand Jury Transcripts [Dkt. #73]; and 3) Motion to Disclose Identity of Confidential Informants [Dkt. #74].

Having considered the entirety of the records and file herein, the Court finds and rules as follows:

1. Motion for Disclosure of 404(b) Evidence.

The defendant seeks disclosure of evidence the government intends to present against the defendant regarding prior or subsequent criminal conduct and/or “bad acts” and any Rule 404(b) or Rule 609 evidence. In response to the motion, the government indicates that it will comply with the Federal Rules of Criminal Procedure and this Court’s Local Rules in disclosing Rule 404(b) evidence and indicates that at this time it

1 does not possess any such evidence. The government further indicates that it will turn over any Rule 404(b)  
2 evidence it subsequently obtains and intends to use. Therefore, this motion will be DENIED.

3       2.       Motion for Grand Jury Transcripts.

4       The defendant seeks the transcripts of the Grand Jury proceedings in this matter. He baldly states  
5 “[t]he transcripts are necessary for the preparation of the defendant’s trial.” In order to be entitled to early  
6 disclosure of Grand Jury transcripts, the defendant bears the burden of demonstrating a particularized need for  
7 the transcripts. *Dennis v. United States*, 348 U.S. 855, 870-72 (1966). The defendant has presented no  
8 grounds which demonstrate a particularized need for the early disclosure of Grand Jury transcripts, as such,  
9 the motion will be DENIED.

10       3.       Motion to Disclose the Identity of the Confidential Informant.

11       The defendant seeks the disclosure of the confidential informants in this matter. He states “[i]t is the  
12 defense position that the informant[sic] is vital to the defense case. Mr. Velazquez should be allowed to  
13 interview the CI prior to trial.” Notwithstanding the fact that “Mr. Velazquez” is not a defendant in this  
14 matter, the defendant, Mr. Nguyen, is only entitled to the disclosure of the confidential informants’ identities  
15 where it would be relevant and helpful to the defense or essential to a fair determination of the cause. *Rovario*  
16 *v. United States*, 353 U.S. 53, 60-61 (1957). The defendant bears the burden of demonstrating the need for  
17 disclosure. *United States v. Williams*, 898 F.2d 1400, 1402 (9<sup>th</sup> Cir. 1990). The government has indicated  
18 a legitimate basis for concern for the safety of the informants. The Court must therefore balance the extent  
19 that the informants’ disclosure would benefit the defense versus the government’s interest in protecting the  
20 informants’ identity. *United States v. Spires*, 3 F.3d 1234, 1238 (9<sup>th</sup> Cir. 1993).

21       In this case, given the lack of specificity for the need for disclosure offered by the defendant and the  
22 government’s well-founded concern for the safety of the informants, the motion will be DENIED. It is  
23 therefore,

1 ORDERED that defendant Phuoc Huu Nguyen's motions to disclose 404(b) evidence [Dkt. 72], for  
2 Grand Jury transcripts [Dkt. #73], and to disclose the identity of the confidential informants [Dkt. #74] are  
3 DENIED.

4 The Clerk shall send uncertified copies of this order to all counsel of record, and to any party appearing  
5 pro se.

6 Dated this 20<sup>th</sup> day of June, 2005.

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9 RONALD B. LEIGHTON  
UNITED STATES DISTRICT JUDGE